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Crl.O.P.No.11258 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2024

CORAM:

THE HONOURABLE Mr. JUSTICE K.KUMARESH BABU

Crl.O.P.No.11258 of 2024

G.Bharani Dharan

... Petitioner

Vs.

O.S.Jeevananthan

...Respondent

Prayer: Criminal Original Petition filed 482 of the Criminal Procedure Code, 1973, to call for the records pertaining to the order dated 26.03.2024 in Crl.M.P.No.924 of 2024 in C.A.No.15 of 2024 passed by the learned Principal Sessions Judge, Vellore and set aside the same by allowing the above Criminal Original Petition for the purpose of a fair trial, equity and natural justice.

For Petitioner : Mr.S.Sasikumar



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ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in Crl.M.P.No.924 of 2024 in C.A.No.15 of 2024 dated 26.03.2024 dismissing the application filed by the petitioner seeking for suspension of sentence pending disposal of the appeal.

2. The petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act by the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, through the judgment dated 16.02.2024 and he was sentenced to undergo simple imprisonment for a period of one year and to pay a sum of Rs.9,97,500/- as compensation to the complainant within one month u/s 357(3) of Cr.P.C., in default, to undergo simple imprisonment for further period of two months. As against the above said judgment, the petitioner/appellant has preferred Criminal Appeal in C.A.No.No.15 of 2024 on the file of the Principal Sessions Judge, Vellore, along with the petition for suspension of sentence. The accused has not appeared before the trial Court on 18.03.2024 and therefore, NBW was issued against him. Since NBW is



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pending against the petitioner, the Lower Appellate Court dismissed the application. Aggrieved by the same, the present petition has been filed before this Court.

3. The learned counsel for the petitioner has relied upon the order of this Court in Crl.O.P.No.7744 of 2024 dated 28.03.2024. A perusal of the said order, it is seen that the this Court had set aside the impugned order, wherein the lower Court had issued conviction of warrant. The above referred case squarely applies to the present case.

4. In view of the above, I am also inclined to set aside the impugned order. Taking into consideration of the facts and circumstances of the case, this Court disposes of the present petition in the following terms:

(a) the petitioner is directed to surrender before the Principal Sessions Judge, Vellore, on or before 20.06.2024 and file a bail application before the concerned Court.



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(b) the petitioner shall deposit 20% of the compensation amount fixed by the trial Court within a period of 60 days, to the credit of STC.No.32 of 2022:

(c) the Principal Sessions Judge, Vellore, shall grant interim bail to the petitioner for a period of 60 days;

(d) if the petitioner deposits the compensation amount within the period of 60 days fixed by this Court, the bail order shall be made absolute by imposing necessary conditions; and

(e) if the petitioner fails to deposit the compensation amount as directed by this Court, interim bail order shall stand cancelled and the Court below shall make the petitioner to undergo the sentence imposed by the trial Court.

08.05.2024

Index : Yes / No
Internet : Yes / No
dna



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To

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1.The Principal Sessions Judge, Vellore.

2.The Additional District Munsif-cum-Judicial Magistrate, Ambur.



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K.KUMARESH BABU, J.
dna

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